

Application No. 10/780,159  
Reply dated October 26, 2007  
Final Office Action dated June 29, 2007

### REMARKS

Claims 1-4, 23, 24, 28-31, 33-42 are pending in the instant application. Claims 22 and 41 have been withdrawn from consideration. The Advisory Action dated September 25, 2007 indicated that Applicants' proposed Amendment dated August 29, 2007 would not be entered in the file on grounds that it created new issues requiring further search and/or consideration on the part of the Examiner. Accordingly, Applicants submit herein no proposed claim amendments, but instead new arguments in support of patentability of the claimed invention. The previous proposed Amendment is withdrawn. Reconsideration of the rejection is respectfully requested in view of the following new remarks.

Method claim 42 was presented for the first time in Applicants' response dated March 22, 2007. The present Action does not indicate the status of this claim. Applicants respectfully request this indication of the status of this claim.

#### Claim Rejections 35 USC §103

Claims 1-4, 23-24, 28-31 and 31-40 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication US 2003/0146541 A1 to Nakamura et al. (hereinafter referred to as "Nakamura") in view of U.S. Patent Application Publication US 2001/0004693 A1 to Burkhead et al. (hereinafter referred to as "Burkhead"). Applicants respectfully traverse this rejection.

The Final Action stated that Nakamura discloses a bone connecting device having a head and shank portion, wherein the shank is molecularly oriented and a head portion which is heated and reshaped to have a wider cross-section than the shank portion, wherein the shank portion has regions of lesser and greater orientation. The Action further states that Burkhead discloses that it is well known in the art to have the region of reinforcement resulting from molecular orientation concentrated in the shank portion of a bone fixing device, wherein the orientation elements optionally do not extend to the head portion (paragraph 0028), thus leaving the head portion of a bone fixing device with less reinforcement (i.e., molecular orientation) than the shank portion (Figure 4A-4D).

Applicants respectfully submit that neither Nakamura nor Burkhead, whether taken individually or in permissible combination, discloses or suggests the claimed device featuring the axis of molecular orientation coinciding with the longitudinal axis.

Paragraph [0059] indicates that the axis of molecular orientation coincides with the longitudinal axis. Further, Paragraph [0046] makes clear that the present device has but a single longitudinal axis. Specifically, Paragraph [0046] refers to the "longitudinal axis of the device".

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The Action states that it has reason to believe that reshaping the head portion of Nakamura at least partially disrupts the molecular orientation. Assuming that any molecular orientation in Nakamura's head portion *initially* was in the same direction as in his shank portion, seemingly, "disrupting such molecular orientation" in the head means that it is no longer in the same direction as the orientation in the shank. To the extent Burkhard shows molecular orientation in the head or hoe portion of his device, it is curved or turned in relation to the orientation in the shank portion (see, for example, Figure 4E and Paragraph [0028]). Thus, Burkhard fails to remedy the deficiency in Nakamura, i.e., molecular orientation of the head and shank portions being in the same direction, and specifically in the same direction as the longitudinal axis of the device.

Accordingly, Applicants respectfully request that this rejection be withdrawn.

In view of the above remarks, Applicants respectfully submit that the present application is in condition for allowance. Accordingly, Applicants respectfully request issuance of a Notice of Allowance directed to claims 1-4, 23, 24, 28-31, 33-40 and 42.

Should the Examiner deem that any further action on the part of Applicants would be desirable, the Examiner is invited to telephone Applicants' undersigned representative.

Respectfully submitted,

  
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